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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/765,516	01/26/2004	Doug Staunton	60,210-212	1024

27305 7590 04/18/2006

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EXAMINER

GILBERT, ANDREW M

ART UNIT	PAPER NUMBER
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3767

DATE MAILED: 04/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/765,516	<b>Applicant(s)</b> STAUNTON ET AL.	
	<b>Examiner</b> Andrew M. Gilbert	<b>Art Unit</b> 3767	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 March 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 24-46 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 24-46 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election with traverse of Species II: Figs 9-17 in the reply filed on 3/26/2006 is acknowledged. The traversal is on the ground(s) that claims 1-23 have been cancelled and newly added claims 24-46 are now pending and read on Species II. The Examiner agrees that all newly added claims are readable upon Species II.

The requirement is still deemed proper and is therefore made FINAL.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 24-27, 34-40 are rejected under 35 U.S.C. 102(b) as being anticipated by Lattner (1871535). Lattner discloses an apparatus capable of being used to deliver medication in a controlled ratio to separate locations from a single source of medication, comprising a valve housing (Fig 1) having an inlet (4) and first and second outlets (6, 7), a cap (2) having an open coupled to valve housing (Fig 1), a flexible diaphragm (3) disposed between said cap and said valve housing to define a pressure chamber in fluid communication with said inlet (Figs 1-3), said flexible diaphragm movable between a closed position to seal said pressure chamber from said first and second outlets and an open position to open said pressure chamber to said first and second outlets (pg 2, Ins 11-16); and a biasing mechanism being a spring (Fig 1; pg 1, Ins 90-97) operable

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between said cap and said flexible diaphragm for biasing said flexible diaphragm towards said closed position; said biasing mechanism includes a piston (28), or control block, disposed in said cap for providing axial alignment (Fig 1, 2); said flexible diaphragm includes a head portion and said piston has a first end coupled to said head portion (pg 1, lns 95-98); the piston being tapered from said first end toward said second end (29); said piston includes a bottom (29) and a peripheral wall (23) extending from said bottom to define a spring chamber (Fig 1), said spring being disposed in said spring chamber (Fig 1); and said cap has a closed end (32), opposite said open end, and a spring positioning member (31, 27) disposed on said closed end and extending inwardly toward said open end (Fig 1), said spring being centered on said spring positioning member (Fig 1).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 28-29 and 41-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lattner in view of Rake et al (6251098). Lattner discloses the invention substantially as claimed except for the spring having an outside dimension that decreases from said first end to said second end and has a generally frustoconical shape. Rake et al teaches that it is known to have the spring having an outside dimension that decreases from said first end to said second end and has a generally

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frustoconical shape (14; Fig 3; col 6, lns 4-10) for the purpose of having the spring coils overlap when compressed to a lower height than a conventional compression spring. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the spring as taught by Lattner with the spring as taught by Rake et al for the purpose of having the spring coils overlap when compressed to a lower height than a conventional compression spring.

6. Claims 30, 31, 43, and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lattner in view of O'Boyle (4874386). Lattner discloses the invention substantially as claimed except for the piston includes a plurality of spring seats disposed on said peripheral wall inside said spring chamber, said spring seats being circumferentially spaced along said peripheral wall. O'Boyle teaches that it is known to have the piston includes a plurality of spring seats disposed on said peripheral wall inside said spring chamber, said spring seats being circumferentially spaced along said peripheral wall (Fig 2, 3; col 4, lns 27-49) for the purpose of placing the reservoir under constant pressure at the spring extends. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the piston as taught by Lattner with the piston as taught by O'Boyle for the purpose of placing the reservoir under constant pressure at the spring extends.

7. Claims 32, 33, 45 and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lattner in view of Sexton et al (5213468). Lattner discloses the invention substantially as claimed except for a first bushing disposed in said first outlet and a second bushing disposed in said second outlet and a first flow restricting

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component disposed within said first bushing and a second flow restricting component disposed within said second bushing. Sexton et al teaches that it is known to have a first bushing disposed in a first outlet and a first flow restricting component disposed within said first bushing (col 4, ln 53-col 5, ln 5) for the purpose of providing additional prevention against backflow. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify both outlets as taught by Lattner with the bushing and flow restrictors as taught by Sexton et al for the purpose of providing additional prevention against backflow.

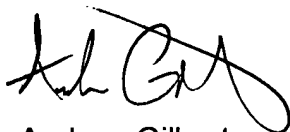
### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew M. Gilbert whose telephone number is (571) 272-7216. The examiner can normally be reached on 8:30 am to 5:00 pm Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Hayes can be reached on (571)272-4959. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Andrew Gilbert



MICHAEL J. HAYES  
PRIMARY EXAMINER